

REMARKS/ARGUMENTS

Claims 1-8 are pending in the present application.

Claims 1-8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dolitzky (WO 02/45658 and U.S. 6,924,393).

Claims 1-8 are directed to a process for preparing venlafaxine by converting N,N-didesmethyl venlafaxine of formula (I), a salt thereof, spiro venlafaxine of formula (II) or a salt thereof in the presence of a salt of formic acid in a specific molar ratio of the reactants. According to the Examiner, the instant claims differ from Dolitzky, specifically Example 2 on Page 7 of WO 02/45658 by using different mole ratios of reactants. The Examiner, however, states that changing of reaction conditions such as reaction ratio is not patentable absent showing of criticality of the reaction conditions.

The present application on page 14, Example 1 discloses a reaction of N,N-didesmethyl venlafaxine hydrochloride with formic acid and formaldehyde at a molar ratio of sodium salt of formic acid to N,N-didesmethyl venlafaxine hydrochloride within the range recited in claim 1. The conversion to venlafaxine was completed in 5 hours. In contrast, Dolitzky discloses a reaction of N,N-didesmethyl venlafaxine hydrochloride with formic acid and formaldehyde where the conversion is conducted for 8 hours. See Example 2 on Page 7 of WO 02/45658 and col. 5 of U.S. Patent 6,924,393.

As noted in the present application on page 5, lines 25-29, "the process according to the [present] invention for preparing venlafaxine . . . proceeds quickly to completion and hence results in high yields of venlafaxine in an economic manner." It would not have been expected that the reaction would proceed faster by the correct selection of the mole ratios of reactants.

Accordingly, it is respectfully requested that the rejection of claims 1-8 under 35 U.S.C. §103(a) as being anticipated by Dolitzky be withdrawn.

If any additional fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
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